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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/023,474

12/17/2001

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3629

7590
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09/11/2007

EXAMINER

LUGO, CARLOS

ART UNIT

PAPER NUMBER

3676

MAIL DATE

DELIVERY MODE

09/11/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/023,474

Applicant(s)

LIANG, LUKE K.

Examiner

Carlos Lugo

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on June 27, 2007.

Claim Objections

2. **Claims 1,10,19 and 25 are objected** to because of the following informalities:

- Claim 1 Line 13, change "a recessed" to -an extended-.
- Claim 1 Line 13 delete the phrase "and a second pivot member which contacts said pivot means when said tumbler is in an extended position".
- Claim 1 Line 16, change "first" to -second-.
- Claim 10 Line 13, change "a recessed" to -an extended-.
- Claim 10 Line 14 delete the phrase "and a second pivot member which contacts said pivot means such that when said tumbler is in an extended position it is thereby being prevented from further travel by the contact of the pivot member with said pivot means".
- Claim 19 Line 19, change "a recessed" to -an extended-.
- Claim 19 Line 19, change "first" to -second-.
- Claim 25 Line 1, change "in" to -is-.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. **Claims 1-3,5-18 and 26 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 10 recites that the second pivot member contacts the pivot means when the tumbler is in an extended position. According to the specification and drawings, the first pivot member is 49, the second pivot member is 50 and the pivot means is 45.

Then, it is unclear how the second pivot member 50 can contact the pivot means 45 in any position of the tumbler 35. As seen in the specification, Page 9 Line 18 to Page 10 Line 9, the second pivot member contacts the sidewall, not the pivot means 45.

Also, as to claim 26, the applicant recites that the second pivot member contacts the top surface of the pin when the tumbler is in the extended position. However, it is unclear how the second pivot member 50 can contact the top surface of the pin 45 when is in the extended position shown in Figure 4.

Therefore, in order to continue with the examination, the limitations would be given a broad interpretation. Appropriate correction and explanation is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1-3 and 5-26 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,248,174 to Matz et al (Matz) in view of US Pat No 1,656,818 to Dillon.

Regarding claims 1,10,11,13 and 19, Matz discloses a vent stop comprising a housing (113) adapted to be disposed in a recess.

The housing includes a cavity with a bottom plate (112) and a rear wall. The bottom plate has a top surface forming at least a portion of an inside surface of the cavity.

The stop also comprises a tumbler (103) disposed in the cavity. The tumbler includes a protruding apex at the top, pivot means (38) for pivotally securing the tumbler to the housing for movement between an extended position where a front face of the tumbler overlies an edge of the sliding member to prevent movement of the sliding member past the front face of the tumbler, and a retracted position within the cavity where the sliding member can be moved past the tumbler.

The tumbler further comprises a first pivot member that is capable of being in contact with the pivot means (38) when the tumbler is in the extended position (Figure 6, the opening contact the surface of 38), and a second pivot member that contact the bottom surface of the housing to prevent over travel of the tumbler (see attachment #1).

The stop further comprises spring means (123) for biasing the tumbler into the extended position.

However, Matz fails to disclose that the tumbler has a pivot member that has a bottom plate contact surface that contacts the edge of the bottom plate when the tumbler is in an extended position thereby being prevented from further travel by the edge. Matz discloses that the housing includes a protrusion (114) wherein the tumble contacts a side of the protrusion with the second pivot member (101,106).

Dillon teaches that it is well known in the art to provide a pivotally stop member (40) having a pivot member (surface between 41 and 45a) that contact an edge of a plate surface (37) so as to prevent further travel of the stop member.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the pivot member described by Matz in contact with the edge of the plate, as taught by Dillon, since the fact that the pivot member contacting the edge or the body of the bottom plate is a design consideration within the art since it would not affect the movement of the tumble. With either surface, it would stop further traveling of the member.

As to claim 2, Matz illustrates that the housing (113) has a faceplate (at 122) and first and second housing members extending from the faceplate and wherein the bottom plate extends from at least one of the housing members (Figures 5 and 6).

As to claims 3 and 12, Matz illustrates that the first and second housing members are generally perpendicular to the faceplate and at least a portion of the bottom member is generally parallel to the faceplate (Figures 5 and 6).

As to claims 5-8,15-8 and 20-23, the fact that the sliding member is a double hung window, a window, a sash in a sliding window, or a door, it is considered as the

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intended use of the vent stop. The recitation with respect to the manner in which an apparatus is intended to be employed does not impose any structural limitation upon the claimed apparatus, which differentiates it from a prior art reference disclosing the structural limitations of the claim.

As to claims 9,14 and 24, Matz, as modified by Dillon, teaches that a force of the tumbler on the bottom plate is capable of being parallel to the top surface of the bottom plate when the tumbler is in an extended position.

As to claim 25, Matz illustrates that a pin (38) is extending from the housing fits in a cavity between the first pivot member and the second pivot member and wherein the tumbler pivots around the pin.

As to claim 26, Matz illustrates that the pin (38) has a top surface and a bottom surface (any surface of 38 view from a convenient point of reference) and wherein the first pivot member contacts the bottom surface of the pin when the tumbler is in a recessed position (Figure 5).

Response to Arguments

7. Applicant's arguments filed June 27, 2007 have been fully considered but they are not persuasive. at the instant, the applicant has not clarify the invention.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

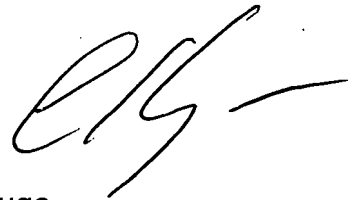
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 571-272-7058. The examiner can normally be reached on 10-7pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer Gay can be reached on 571-272-7029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

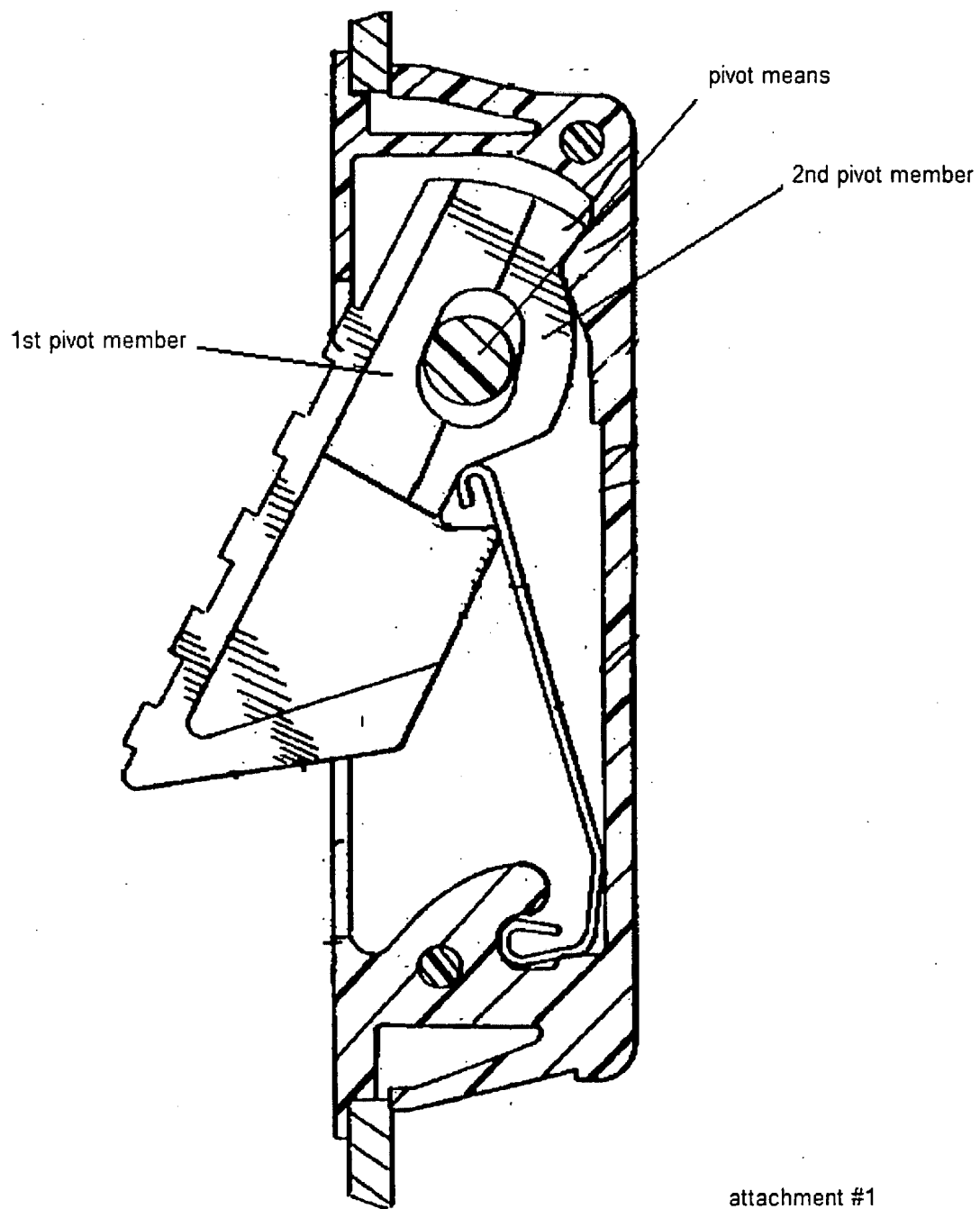
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If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'CLG', followed by a horizontal line.

Carlos Lugo
Primary Examiner
Art Unit 3676

September 4, 2007.



attachment #1